100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-235

ATOMIC VETERANS COMPENSATION ACT OF 1987

JULY 23, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 1811]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1811) to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation, having considered the same, reports favorably thereon with an amendment, by unanimous voice vote, and recommends that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atomic Veterans Compensation Act of 1987".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION.

Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, any of the diseases specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within 30 years after the last date on which the veteran participated in a radiation-risk activity shall be considered to have been incurred in or aggravated by the veteran's participation in a radiation-risk activity during service on active duty, notwithstanding the fact that there is no record or evidence of that disease during the period of such service.

"(2) The diseases referred to in paragraph (1) are the following:

H763-10

"(A) Any form of leukemia other than chronic lymphatic leukemia.
"(B) Thyroid cancer.
"(C) Bronchogenic carcinoma.
"(D) Breast cancer.
"(E) Cancer of the pharynx.
"(F) Cancer of the esophagus.
"(G) Cancer of the stomach.
"(H) Cancer of the small intestine.
"(I) Cancer of the colon.
"(J) Pancreatic cancer.

"(3) For purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veteran's participation in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means onsite participation in—

"(i) the atmospheric detonation of a nuclear device; or

"(ii) the occupation of Hiroshima and Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.".

SEC. 3. EFFECTIVE DATE.

Subsection (c) of section 312 of title 38, United States Code, as added by the amendment made by section 2, shall take effect on October 1, 1987.

INTRODUCTION

On May 20, 1987, the Subcommittee on Compensation, Pension and Insurance conducted hearings on the bill, H.R. 1811, introduced on March 25, 1987, by the Honorable J. Roy Rowland, to establish a presumption of service connection for certain specified diseases suffered by veterans who participated in certain radiation-risk activities, e.g., the occupation by American forces of Hiroshima and Nagasaki, Japan, and participation in the atmospheric testing of nuclear devices between 1945 and 1963. The bill, as introduced, would amend section 314 of title 38, United States Code, to provide a statutory presumption of service connection for the diseases of leukemia, other than chronic lymphatic leukemia, thyroid cancer, female breast cancer, polycythemia vera, and bronchogenic carcinoma, if manifested to a compensable degree within 30 years after the last date of the veteran's participation in a radiation-risk activity.

On June 17, 1987, the Subcommittee adopted an amendment in the nature of a substitute offered by the Chairman of the Subcommittee, the Honorable Douglas Applegate, and recommended the bill, as amended, to the full Committee.

On July 22, 1987, the full committee unanimously approved the bill as amended and ordered it to be reported to the House.

SUMMARY OF THE BILL

The reported bill, H.R. 1811, would provide that effective October 1, 1987, compensation may be paid for the following diseases provided such disease(s) become manifest in a radiation exposed veteran to a degree of 10 percent or more within 30 years after the last date on which the veteran participated in a radiation-risk activity while serving on active duty:

(1) leukemia (other than chronic lymphatic leukemia);
(2) thyroid cancer;
(3) bronchogenic carcinoma;

(4) breast cancer;
(5) cancer of the pharynx;
(6) cancer of the esophagus;
(7) cancer of the stomach;
(8) cancer of the small intestine;
(9) cancer of the colon; and
(10) pancreatic cancer.

Background and Discussion of the Bill

Beginning in 1945 and continuing until 1963, the U.S. Government exploded approximately 235 nuclear devices in the atmosphere over the American Southwest and Pacific Ocean. The Department of Defense estimates that approximately 220,000 military personnel participated in those tests.

The Centers for Disease Control (CDC), (which is part of the Department of Health and Human Services), conducted a study of the participants in the atmospheric nuclear test Smoky. There were 3,217 persons confirmed as present during the detonation of Smoky on August 31, 1957. The CDC could not locate or determine the vital status of 145 participants. Of the remaining 3,072 (95.5 percent of the total), CDC reviewed the death certificates of the 146 who are deceased and contacted the remaining 2,926 participants or their next of kin. Only 20 of those contacted refused to be included in the study.

According to United States mortality statistics, 365 deaths from all causes would have been expected in this population to date. In fact, there have been 320 deaths in Smoky participants.

CDC also calculated the expected number of cancer deaths for this population to be 64.3. In fact, they found 64. Of deaths from leukemia, 9 were found compared to 3.1 expected. This difference is statistically significant.

Aside from the 9 leukemia deaths, the study of Smoky participants by the CDC did not find evidence of increased frequency of cancer or death from cancer, but did observe less than the number of total deaths expected. Seymour Jablon of the National Academy of Sciences testifed at a committee hearing concerning his studies into the mortality rate among 52,000 veterans who had participated in five atmospheric tests, including the test series of which Smoky was a part (code-name Plumbbob). In contrast to the CDC findings concerning only Smoky participants, which Jablon's work verified, preliminary results show no excess mortality from leukemia, nor from other forms of cancer or other illnesses, among this much larger study cohort. He also testified that, given the timing of the introduction of the Hiroshima/Nagasaki occupation forces, none could have received radiation doses exceeding one-tenth rad.

There is an extensive body of information, mostly from follow-up studies of the health histories of the Japanese who were exposed at Hiroshima and Hagasaki, about the health effects of radiation exposure caused by nuclear detonation. However, there is very little information specifically related to veterans who were exposed during the weapons test program.

According to information furnished by the Defense Nuclear Agency, the duration of the military occupation of Hiroshima and

Nagasaki was relatively short. The first U.S. units to occupy Hiroshima arrived October 6, 1945. U.S. Forces in Hiroshima were relieved by an Australian unit on March 6, 1946, and U.S. occupation in the vicinity came to an end at that time. The first advance part of the U.S. occupation force (about 12 personnel) arrived in Nagasaki on September 16, 1945. The last units departed Nagasaki in June 1946. The occupation of these two sites was completed within the World War II period as defined in title 38, United States Code.

Public concern about the health effects of low-level ionizing radiation has been heightened in recent years by the results of several studies. Since 1902, when cancer was first attributed to overexposure to X-rays, the U.S. Government has spent close to $2 billion (approximately $80 million per year in recent years) for research on the health effects of exposure to low-level ionizing radiation. At least 80,000 scientific papers on the subject have been published worldwide. While much has been learned about the carcinogenic effects of high doses of radiation exposure, scientists still are uncertain how low-level ionizing radiation exposure causes cancer, and how to predict the effects of exposure to low doses of ionizing radiation.

Medical and scientific information available to the Committee has identified a number of disabilities that appear to bear some relationship to exposure to ionizing radiation. Some feel that Congress should abide by its long-standing tradition that benefits should be paid only where substantive evidence is clearly available to establish that the disabling conditions existed while on active duty or are clearly related to such period of service. It has become apparent that such evidence will never be available in the cases of veterans covered under the provisions of the reported bill because the level of exposure cannot be verified. During the atomic tests, some service members did not wear badges designed to measure the level of exposure, others lost their badges and many badges were found to be defective. Since the amount of exposure of the "radiation-exposed veteran", as defined in the reported bill, is less than certain, the Committee has deliberately ignored the issue of level of exposure and has concentrated instead on the likelihood of relationship of disease entities to radiation exposure. The proposed legislation includes those malignancies considered most likely to be related to ionizing radiation exposure.

Although the effective date of payment of benefits under the reported bill is October 1, 1987, it is the Committee's intention that disability and/or death benefits can be paid beginning in October 1987 for disabilities or deaths which occurred prior to that date.

Section-by-Section Analysis

Section 1 provides that this act may be cited as the Atomic Veterans Compensation Act of 1987.

Section 2 would amend section 312 of title 38, United States Code, by adding a new subsection (c) at the end thereof.

Paragraph (1) of new subsection (c) would provide that for the purposes of section 310 of title 38 and subject to the provisions of section 313 of such title, the diseases specified in paragraph (2) shall be considered to have been incurred in or aggravated by the

veteran's participation in a radiation-risk activity during service on active duty, notwithstanding the fact that there is no record or evidence of that disease during the period of service.

Paragraph (2) of new subsection (c) lists the diseases referred to in paragraph (1) as any form of leukemia, except chronic lymphatic leukemia, thyroid cancer, bronchogenic carcinoma, breast cancer, cancer of the pharynx, cancer of the esophagus, cancer of the stomach, cancer of the small intestine, cancer of the colon, and pancreatic cancer, if manifested to a degree of 10 percent or more within 30 years after the veteran's participation in a radiation-risk activity. Paragraph (2) also defines the term "radiation-exposed veteran" as a veteran who was exposed to ionizing radiation as a result of the veteran's participation in a radiation-risk activity and "radiation-risk activity" as meaning onsite participation in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on August 6, 1945, and ending on July 1, 1946.

Section (3) states that new subsection (c) shall take effect on October 1, 1987.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Inflationary Impact Statement

The reported bill would have no inflationary impact.

Congressional Budget Office Cost Estimate

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., July 22, 1987.

Hon. G.V. (Sonny) Montgomery,
Chairman, Committee on Veterans' Affairs,
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman: In response to your request, CBO has prepared the attached cost estimate for H.R. 1811, the Atomic Veterans Compensation Act of 1987, as ordered reported by the House Committee on Veterans' Affairs, July 22, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

cc: Hon. Gerald B.H. Solomon
Ranking Minority Member

1. Bill number: H.R. 1811.
2. Bill title: The Atomic Veterans Assistance Act of 1987.
3. Bill status: As ordered reported by the House Committee on Veterans' Affairs July 22, 1987.
4. Bill purpose: To establish a presumption of service-conncetion for certain diseases of veterans who were exposed to ionizing radiation while participating in the military occupation of Hiroshima and Nagasaki or in military tests involving the atmospheric detonation of nuclear devices. To qualify, however, the disease must become manifest to a degree of 10 percent or more within 30 years of the last date of such exposure.
5. Estimated cost to the Federal Government:

[by fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992
Budget authority	15	14	14	14	14
Estimated outlays	14	14	14	14	14

The cost of this bill would fall in budget function 700.

Basis of Estimate—The above table reflects the estimated cost of disability compensation and dependency and indemnity compensation (DIC) benefits to radiation-exposed veterans contracting one of the following diseases and to the survivors of veterans dying from one of these diseases, so long as the disease became manifest within 30 years of exposure:

Any form of leukemia other than chronic lymphocytic leukemia,
Thyroid cancer,
Bronchogenic carcinoma,
Breast cancer,
Cancer of the pharynx,
Cancer of the esophagus,
Cancer of the stomach,
Cancer of the small intestine,
Cancer of the colon, and
Pancreatic cancer,

The estimate of the cost for the listed malignancies was developed using a computer model that operates on data from a variety of sources. The number of veterans participating in the occupation and nuclear testing distributed by data of exposure was supplied by the Veterans' Committee staff. The normal incidence and one-through five-year relative survival rates for the specified cancers in the general population of males aged 55 and older was supplied by the Demographic Analysis Section of the National Cancer Institute (NCI). Remarriage and death rates for the surviving spouses were taken from census data involving widows by age group in the general population.

The estimate is also dependent on a number of assumptions, the most critical of which is that the veterans in the exposed population contract these diseases at the same rate as their non-veteran

counterparts in the general population. Should these diseases be more prevalent among radiation-exposed veterans, the cost of this bill would be higher than shown above. It was also assumed that virtually all deaths among the cancer patients would be considered service-connected, thus qualifying the veteran's survivors for DIC benefits. New disability compensation cases were assumed to receive benefits at the rate payable for 100 percent disability. New DIC cases were assumed to receive the average benefit payable to all DIC cases.

It was estimated that this bill would generate approximately 300 new compensation cases and about 1,450 new DIC cases in fiscal year 1988. The number would decline somewhat in future years as the result of Hiroshima and Nagasaki occupation veterans passing the 30-year delimiting date. Total costs would remain relatively stable, however, because the caseload decline would be offset by assumed cost-of-living increases in compensation rates.

6. Estimated cost to state and local government: The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. Estimated comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: K.W. Shepherd (226-2820).

10. Estimate approved by:

C.G. NUCKOLS,

(For James L. Blum, Assistant Director for Budget Analysis.)

AGENCY REPORTS

The Committee received the following letters from the Veterans Administration on the reported bill.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUN 25 1987

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to provide the views of the Veterans Administration (VA) on H.R. 1811, 100th Congress, a bill "to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation." We strongly oppose its enactment.

Briefly, the bill would amend chapter 11 of title 38 to establish a presumption of service connection for disability compensation purposes for certain radiogenic diseases manifested to a degree of 10 percent or more within 30 years of the date of participation in the case of veterans who participated in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki prior to July 1, 1946. The presumption of service connection would apply to all forms of leukemia (except chronic lymphatic leukemia), polycythemia vera, thyroid cancer, bronchogenic carcinoma, and female breast cancer.

The VA is committed to assuring that the health-related concerns of atomic veterans are responsibly addressed. We have fully implemented the provisions of law that authorize free, comprehensive health care for atomic veterans regardless of whether their ailments are radiation related. We have also worked diligently to devise and apply regulations to ensure the careful, reasoned consideration of their compensation claims on the basis of the best available evidence. The enactment of H.R. 1811 would mark a radical departure from this reasoned approach that is not justified by scientific evidence, and as a result would seriously undermine the legitimacy of our compensation programs.

Our primary objections to the bill may be summarized as follows: existing law already provides entitlement to service connection for radiogenic diseases; a presumption of law in the case of low-level radiation exposure would substantially weaken the legitimacy of the service-connected disability benefit programs; and, the eligibility criteria embodied in the bill are overinclusive and inequitable.

2.

Honorable G.V. (Sonny) Montgomery

The VA currently has broad authority to grant service connection for disabilities, including those caused by exposure to ionizing radiation during military service, even where the initial symptoms of disease manifest themselves years after exposure. Some 28 such claims have been allowed to date. Moreover, when scientific research produces new findings on the cause of a particular disease or its association with the circumstances of service, existing law enables the VA to revise its regulations to assure the latest scientific data are brought to bear. This assures an orderly system of claims adjudication that is firmly based on accepted medical and scientific knowledge.

VA's regulation governing adjudication of compensation claims based on radiation exposure, at 38 C.F.R. § 3.311b, provides for case-by-case reviews in recognition of the many variables that must be considered in assessing the merits of such claims. Thus, once it is verified that a radiogenic disease has developed within specified periods after exposure to radiation in service, analysis continues, taking into account a number of factors. These include:

(1) The probable dose, in terms of dose type, rate and duration as a factor in inducing the disease, accounting for any known limitations in the dosimetry devices employed in its measurement or the methodologies employed in its estimation;

(2) The relative sensitivity of the involved tissue to induction, by ionizing radiation, of the specific pathology;

(3) The veteran's gender and pertinent family history;

(4) The veteran's age at time of exposure;

(5) The time-lapse between exposure and onset of the disease; and

(6) The extent to which exposure to radiation, or other carcinogens, outside of service may have contributed to development of the disease.

Because each of these factors can substantially affect the likelihood that a claim is valid, there is no pat formula or blanket rule that can be devised which would equitably provide benefits and be neither overinclusive nor underinclusive. There is no acceptable "quick fix," no substitute for thoughtful analysis of the facts unique to each case in endeavoring to separate the more deserving claims from the rest.

3.

Honorable G.V. (Sonny) Montgomery

All authoritative scientific information leads to the conclusion that the overwhelming majority of veterans covered by H.R. 1811 received very low doses of radiation, whether they participated in the weapons tests or the occupation of Hiroshima and Nagasaki. For example, official film badge data for the test participants show fully 42% received no dose whatsoever, and the average for the entire group was only .5 rem. Less than 1% received doses exceeding 5 rem, which under current Federal guidelines is the annual allowable exposure for radiation workers.

To put these doses into perspective, it should be borne in mind that Americans receive an annual average whole-body dose of 0.1 rem from "natural background" sources (i.e., terrestrial and cosmic radiation and naturally occurring radionuclides deposited in the body) 1/ and exposure may be greater for some areas of the U.S., for example, Denver, Colorado, due to altitude and geographic location. When one considers that we also sustain average annual doses of some 0.1 rem to the bone marrow from medical and dental X-rays, 2/ the relative insignificance of the radiation exposure of test participants can be better appreciated.

The doses for the occupation forces were even more negligible, given such historical factors as the limited activities of the personnel, the distance between the hypocenters of the detonations and where the servicemembers were stationed, the relatively short duty assignments in the cities, and the assignment of troops to the cities only after weeks had elapsed since the bombings. An absolute worst-case analysis by the Defense Nuclear Agency shows no veteran's dose could have exceeded 1 rem as a result of his participation in the occupation of Hiroshima and Nagasaki.

What is the health effect, if any, of such small doses? While the effects at high doses are well documented, the effects, if any, of the low doses sustained by most of these veterans are so few as to be undetectable. Prudence may dictate that one not assume there is no adverse health consequence whatsoever from doses as low as one rem or less, but the best estimates are that the risk, if any, is infinitesimally small. For example, the lifetime risk of death from cancer in the general population is some 16% or 17%, so that we might expect 32,000 to 34,000 deaths from cancer will eventually occur in any population of 200,000 (roughly the number of veterans who participated in the weapons tests). A radiation exposure of .5 rem for this population would only, it is widely accepted, increase the number of cancer deaths by ten cases (above the 32,000 to 34,000 "naturally occurring" ones). The issue really becomes whether the Federal government should presume that all 32,010 eventual cancers among atomic veterans are service connected in order to assure that the ten

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1/ BIER III, Summary and Conclusions (p. 1)

2/ BIER III, Table III-6 (p.47)

4.

Honorable G.V. (Sonny) Montgomery

possible excess cases related to service are covered, or whether it is better public policy to look at each case individually to separate the more deserving claims from those less deserving. We believe the only responsible approach is the latter.

The principle that the Government owes more to veterans injured as a result of service than to other veterans has guided benefits policies since our Nation's infancy. No one can question the responsibility to compensate for loss of life or health in the line of duty, which is why the VA's compensation programs deserve and enjoy broad public support. If eligibility criteria are diluted to the point where significant numbers of beneficiaries have no valid claim to these payments, public support will almost certainly erode. Such dilution of the standards could well invite a backlash the results of which are impossible to predict. That is why it is essential that eligibility standards remain tenable, and that the underlying principle of service connection not be compromised.

We are also concerned that the population of veterans at which H.R. 1811 is directed may not be defensible on substantive due process grounds. The bill focuses on test participants and occupation troops only, to the exclusion of all other veterans exposed to radiation. Literally every servicemember who ever served even one day was exposed to natural background radiation and, since the nuclear age began, to man-made forms of ionizing radiation from fallout and other sources such as medical and dental diagnostic X-rays. Virtually all veterans of the modern era received standard chest X-rays during entrance and separation examinations, for example. If the policy proposed in H.R. 1811 is adopted with respect to only "atomic" veterans, on what basis can other veterans equally exposed be denied equal treatment?

For example, consider the case of a test participant whose estimated dose was .5 rem. If he later contracted leukemia (other than chronic lymphatic leukemia), section 2 of the bill would require that his leukemia be presumed service connected. Now, consider the second case of a veteran whose documented dose of .5 rem was sustained as a result of his duty as an X-ray technician. VA could legitimately deny his claim based upon the extremely tenuous relationship between so small a dose and the development of leukemia. Is there a rational basis for compelling a different result in the atomic veteran's case?

It is also unclear to us how the list of cancers for which service connection is to be presumed (under section 2 of the bill), to the exclusion of other radiogenic forms of cancer, could pass a rational-basis test in a court of law. We observe, for instance, that bronchogenic carcinoma is a common disease principally associated with smoking rather than exposure to low-level ionizing radiation. Moreover, no reliable studies have found evidence of excess hazards of developing polycythemia vera following exposure to such radiation.

5.

Honorable G.V. (Sonny) Montgomery

As recently as 1984, Congress rejected blanket presumptions of service connection for atomic veterans, and instead entrusted to VA responsibility for carrying out a policy which would "ensure that Veterans Administration disability compensation is provided ... for all disabilities ... that are connected, based on sound scientific and medical evidence, to [exposure] ...." (Sec. 3, Pub. L. No. 98-542.) We have in place rules to do exactly that, and enactment of H.R. 1811 would be a serious retreat from the principle that service connection should be grounded in sound scientific and medical evidence. In fact, the Veterans Advisory Committee on Environmental Hazards has reviewed the measure and concluded it does not have a scientific basis, does not allow for scientific analysis, and may be contrary to scientific knowledge. For the foregoing reasons, we cannot countenance so unwarranted an undermining of service-connection principles, and therefore must register in the strongest possible terms our objection to passage of this legislation.

As requested, the VA has estimated the five-year cost of enactment of this legislation. We must emphasize that the cost of the measure is not a factor in our opposition to H.R. 1811. Assuming that the measure is intended to cover peacetime as well as wartime veterans and to provide a basis for payment of survivors' benefits, the estimated cost and caseload data are as follows:

FY	Veteran Cases	Veteran Cost ($000)	Survivor Cases	Survivor Cost ($000)	Man Yrs.	Admin. Cost ($000)	Total Benefit Cost ($000)
1988	1,968	$20,200	4,366	$ 31,400	12	$341	$ 51,600
1989	1,955	19,900	4,382	31,500	...	...	51,400
1990	1,942	19,600	4,389	31,600	...	...	51,200
1991	1,923	19,200	4,396	31,700	...	...	50,900
1992	1,908	19,000	4,403	31,700	...	...	50,700
		$97,900		$157,900	...	...	$255,800

The administrative cost after the fiscal year following enactment would be insignificant; i.e., it would be less than $100,000 in any fiscal year.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 1811 to the Congress.

Sincerely,

THOMAS K. TURNAGE
Administrator

Office of General Counsel Washington D.C. 20420

MAY 0 1987

Veterans Administration

May 19, 1987

In Reply Refer To:

Honorable G. V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Veterans' Advisory Committee on Environmental Hazards was established pursuant to Public Law 98-542. It consists of 15 members, 4 lay members and 11 scientific members. (A brief biographical sketch of the members is enclosed; currently, there is one lay member vacancy.) Its principal purpose is to review the scientific literature concerning the health effects of exposure to dioxin or to ionizing radiation and to make whatever recommendations it deems appropriate to the Administrator of Veterans' Affairs concerning these issues.

The Committee has held 5 meetings since its inception in 1985 and has made a number of recommendations to the Agency, the majority of which relate to the issue of the health effects of exposure to ionizing radiation. For example, in its review of the Agency's proposed regulations implementing Public Law 98-542, the Committee recommended that diseases additional to those proposed by the Agency be considered to be radiogenic. Subsequently, the Agency adopted the recommendations of the Committee and included the additional diseases. The Committee has also responded to questions posed by the Veterans Administration. These questions have addressed such issues as whether male breast cancer, posterior subcapsular cataracts, or thyroid nodular disease should be considered to be radiogenic (to which the Committee responded affirmatively) and what are the appropriate latency periods for diseases that are considered to be radiogenic.

The support the Committee has received from the Agency has been more than adequate to enable us to do our job. The Agency has considered thoughtfully the advice we have rendered to it and, to date, has accepted all of our recommendations.

2.

At the request of the Committee on Veterans' Affairs, the Veterans' Advisory Committee on Environmental Hazards has reviewed and considered H.R. 1811, S. 453, and S. 1002, various bills that relate to the issue of compensation of veterans who served with the occupation forces of Nagasaki or Hiroshima, Japan prior to July 1, 1946, or who participated in the atmospheric testing of a nuclear device and subsequently developed a covered disease.

H.R. 1811 would presume service connection for all forms of leukemia (except chronic lymphatic leukemia), for polycythemia vera, thyroid cancer, bronchogenic carcinoma, and female breast cancer becoming manifest to a degree of ten percent at any time within thirty years of the veteran's participation in an atmospheric atomic test or with the occupation forces.

S. 453 would presume service connection for all forms of leukemia (except chronic lymphatic leukemia) becoming manifest within thirty years and liver cancer, multiple myeloma, or cancer of the bone marrow becoming manifest five or more years after the veteran's service with the occupation forces or participation in an atmospheric detonation of a nuclear device.

S. 1002 would provide disability and death benefits for a variety of diseases, the amount of the benefit being dependent upon the degree of certainty of association between the disease and exposure to ionizing radiation. The diseases listed as being strongly associated with radiation exposure are thyroid cancer manifested five or more years after participation or leukemia manifested within thirty years.

Diseases which are listed as showing a moderate association with radiation exposure and as not being shown to be associated with other significant risk factors are: cancer of the colon, small intestine, stomach, liver (except where cirrhosis or hepatitis B is indicated), bile ducts, gall bladder, and pancreas, lymphomas (excluding Hodgkin's disease), and multiple myeloma if manifested five or more years following exposure. These diseases would be compensated at fifty percent of the regular rate otherwise payable.

Diseases listed as being somewhat associated with radiation or as equally or more strongly associated with other risk factors than with radiation are cancer of the lung, esophagus, rectum, pharynx, liver (when cirrhosis or hepatitis B is indicated), kidney, urinary tract, bladder, brain and nervous system, salivary glands, and bones and joints and cutaneous melanoma when manifested five or more years following exposure. The Administrator is to give special consideration in the adjudication of claims for benefits based upon these diseases.

3.

The Veterans' Advisory Committee on Environmental Hazards has consistently expressed the view that the determination of a causal association between exposure to ionizing radiation and the subsequent development of a disease must be consistent with scientific knowledge. A variety of factors must be considered in arriving at a determination. These include the dose of radiation to which the individual was exposed, the age at the time of exposure, the sex of the individual, the habits and lifestyle of the individual and so forth. Further, the Committee believes that recognition must be given to the fact that the lower the amount of radiation exposure, the more unlikely is there to be an association between that exposure and a later arising disease.

The Committee recognizes that this issue is one that continues to generate high interest and high emotion. While a great deal is known about the effects of exposure to ionizing radiation, especially to high levels, much uncertainty remains. That uncertainty, however, revolves around the degree of probability that a given cancer was caused by a given low dose of radiation. It can be stated in any event that the lower the level of ionizing radiation, the lower the probability of causation. The degree of certainty that policy makers require to make decisions concerning compensation is not a scientific one but a socio-political one.

The Advisory Committee views its role primarily as one of making certain that available scientific evidence is brought to bear by persons responsible for these policy judgements. It is our considered view that while S. 1002 is, in some respects, the more refined proposal in terms of incorporating available evidence, even the choices it embodies cannot be justified on the basis of sound scientific data. Very low level exposure to ionizing radiation has never been shown to appreciably affect one's risk of incurring cancer, yet S. 1002 would presume causation for any exposure in cases in which certain diseases later develop, and for exposures as low as one rem for a second category of diseases. Second, we are unaware of any justification for providing this remedy only for exposures resulting from the detonation of nuclear weapons, without considering exposures resulting from the myriad other sources to which service members were (and continue to be) subjected. Third, in considering the possible effects of exposure to ionizing radiation, other causes, often much more important, for example smoking and lung cancer, must also be considered. Finally, we are unaware of any credible evidence to justify the padding of official military dose data as VA would be required to do in assessing the merits of claims involving a third category of diseases.

4.

As a technical matter, we would also note that no reference is made in S. 1002 to female breast cancer although such cancer has been characterized by the Committee on the Biological Effects of Ionizing Radiation as one of the organs most susceptible to radiation carcinogenesis. It should be noted that the Advisory Committee does not believe that an absolute distinction should be made between female breast cancer and male breast cancer as concerns the probability of causation by radiation (as is made by H.R. 1811).

The Committee also notes that the thirty-year period for the manifestation of leukemias is not consistent with scientific information indicating that they may become manifest more than thirty years after exposure (although the probability of association after thirty years is very small).

Finally, the Committee notes that H.R. 1811 presumes service connection for polycythemia vera. The Committee has reviewed the scientific literature and concluded that polycythemia vera is not a radiogenic disease and thus this presumption is contrary to the scientific evidence currently available.

In concluding, it is important to note that the Committee believes that the approach now being utilized by the Veterans Administration is fully consistent with the current understanding of the health effects of exposure to ionizing radiation. The approaches suggested by each of the measures addressed in these comments are not consistent with current scientific knowledge. If any of these proposals are to be adopted, it is strongly urged that they not be adopted under the guise of being consistent with good science for clearly the changes proposed here are not.

Thank you for this opportunity to present our views on these legislative proposals.

Sincerely,

Fredric L. Conway

for OLIVER H. MEADOWS
Chairman
Veterans' Advisory Committee
on Environmental Hazards

Enclosure

VETERANS' ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

Dioxin Experts

George D. Lathrop, M.D., Ph.D., Science Applications International Corporation, Boerne, Texas
Dr. Lathrop received his medical degree from the University of Illinois in 1962 and his doctorate in epidemiology from the University of California at Berkley in 1968. Formerly the Chief, Epidemiology Division, United States Air Force School of Aerospace Medicine, Dr. Lathrop was the chief investigator for the Air Force "Ranch Hand" study. He is a Fellow of the American College of Preventive Medicine and is certified by the American Board of Preventive Medicine. He is a member of several professional organizations, including the American Public Health Association and the Texas Society of Infectious Diseases.

Walter Melvin, M.D., Professor of Environmental Health Sciences, Colorado State University, Fort Collins, Colorado
Dr. Melvin received his medical degree from the University of Colorado in 1949, a Master of Public Health degree in industrial hygiene from the Harvard University School of Public Health, and a Doctor of Science degree in Environmental Toxicology and Occupational Health from the University of Cincinnati in 1962. He is a founding member of the American College of Toxicology, a Fellow in the American Public Health Association, and a member of a number of other professional associations.

James S. Taylor, M.D., Department of Dermatology, Cleveland Clinic Foundation, Cleveland, Ohio
Dr. Taylor received his medical degree in 1966 from Indiana University and is certified by the American Board of Dermatology. He currently is the head of the section on Industrial Dermatology at the Cleveland Clinic, a post he has held since 1973, and has written several publications on chloracne.

Radiation Experts

James V. Neel, M.D., Ph.D., Professor of Genetics, University of Michigan Medical School, Ann Arbor, Michigan
Dr. Neel received his doctorate in genetics in 1939 and his medical degree in 1944, both from the University of Rochester. He served on the National Research Council's Atomic Bomb Casualty Commission. His membership in professional organizations includes the National Academy of Sciences, the Association of American Physicians, the American Philosophical Society, and the American Society of Naturalists. His principal professional interest is in the area of the genetics of man. He has had extensive experience in the area of the genetic effects of radiation.

2.

Arthur C. Upton, M.D., Institute of Environmental Medicine, New York University Medical Center, New York, New York
Dr. Upton received his medical degree from the University of Michigan in 1946 and is certified by the American Board of Pathology. He has had extensive experience in the area of the effects of radiation exposure with particular interest in the pathology of radiation injury and endocrine glands, cancer, carcinogenesis, experimental leukemia, and aging. He was recently the Director of the National Cancer Institute.

Edward W. Webster, Ph.D., Department of Radiology, Massachusetts General Hospital, Boston, Massachusetts
Dr. Webster received his doctorate in electrical engineering from the University of London in 1946. His particular areas of interest are radiological physics, including radiation dosimetry and protection, in which he is certified by the American Board of Radiology. He is a member of a number of professional associations, including the American Association of Physicists in Medicine, the Health Physics Society and the Society of Nuclear Medicine.

Generalists

Michael Bender, Ph.D., Brookhaven National Laboratory, Upton, New York.
Dr. Bender received his doctorate in biology from the Johns Hopkins University in 1956. He has had experience in the field of radiation and genetics. He is a member of several professional societies, including the American Society for Cell Biology, the Radiation Research Society and the Environmental Mutagen Society.

Theodore Colton, Sc.D., Professor of Public Health, Boston University School of Public Health, Boston, Massachusetts
Dr. Colton received his doctorate from the Johns Hopkins University in 1960. He has had extensive experience in the field of biostatistics and epidemiology. The professional organizations to which he belongs include the Society for Epidemiological Research, the American Public Health Association, and the Biometrics Society. He is a Fellow of the American Statistical Association.

Leonard T. Kurland, M.D., Dr. P.H., M.P.H., Chairman, Department of Medical Statistics and Epidemiology, Mayo Clinic, Rochester, Minnesota
Dr. Kurland received his medical degree from the University of Maryland in 1945, his master's degree in public health from Harvard University in 1948 and his doctorate in public health from the Johns Hopkins University in 1951. He is certified by the American Board of Preventive Medicine. Among his professional interests is the epidemiology of chronic disease. He is a member of the American Epidemiological Society.

3.

Warren K. Sinclair, Ph.D., President, National Council on Radiation Protection and Measurements, Bethesda, Maryland
Dr. Sinclair received his doctorate in physics from the University of London in 1950. His professional interest is in the areas of radiation protection, radiation physics, and radiation biology. His membership in professional organizations includes the Radiation Research Society, the Society of Nuclear Medicine, and the Association of Physicists in Medicine.

Armon F. Yanders, Ph.D., Professor of Biological Sciences and Director, Environmental Trace Substances Research Center, University of Missouri, Columbia, Missouri
Dr. Yanders received his doctorate in zoology from the University of Nebraska in 1953. A geneticist and former Dean of the College of Arts and Sciences of the University of Missouri at Columbia, he is a member of the American Society of Zoologists, and the Genetics Society of America. His research has involved the genetic effects of ionizing radiation and toxic chemicals.

Lay Members

Oliver Meadows, Godley, Texas
Mr. Meadows is a former National Commander of the Disabled American Veterans and former staff director of the House of Representatives' Veterans' Affairs Committee. A disabled veteran of World War II, he currrently serves on the Administrator's Educational Assistance Advisory Committee.

Hon. Michael Zimmerman, Supreme Court of Utah, Salt Lake City, Utah
Justice Zimmerman was recently appointed to the Supreme Court of Utah. As the Governor of Utah's former representative on the Department of Energy's Offsite Dose Assessment Advisory Committee, he has a demonstrated interest in the issue of radiation-induced illnesses.

Col. Eileen Bonner, Washington, D.C.
Col. Bonner is the current president of the Reserve Officers' Association. A registered nurse, she is a doctoral candidate at Columbia University and a health care administrator.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 312 OF

TITLE 38, UNITED STATES CODE

§ 312. Presumptions relating to certain diseases and disabilities

* * *

* * * * * * *

(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, any of the diseases specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within 30 years after the last date on which the veteran participated in a radiation-risk activity shall be considered to have been incurred in or aggravated by the veteran's participation in a radiation-risk activity during service on active duty, notwithstanding the fact that there is no record or evidence of that disease during the period of such service.

(2) The diseases referred to in paragraph (1) are the following:

(A) Any form of leukemia other than chronic lymphatic leukemia.

(B) Thyroid cancer.

(C) Bronchogenic carcinoma.

(D) Breast cancer.

(E) Cancer of the pharynx.

(F) Cancer of the esophagus.

(G) Cancer of the stomach.

(H) Cancer of the small intestine.

(I) Cancer of the colon.

(J) Pancreatic cancer.

(3) For purposes of this subsection:

(A) The term "radiation-exposed veteran" means a veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veteran's participation in a radiation-risk activity.

(B) The term "radiation-risk activity" means onsite participation in—

(i) the atmospheric detonation of a nuclear device; or

(ii) the occupation of Hiroshima and Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

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100TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
100-236

VETERANS' COMPENSATION AMENDMENTS OF 1987

JULY 23, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany H.R. 2945]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 2945) to amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes, having considered the same, reports favorably thereon, by unanimous vote, with an amendment, and recommends that the bill as amended do pass.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 304. NUMBER OF VETERANS RECEIVING PENSION WHO ARE SUBJECT TO VOCATIONAL TRAINING EVALUATIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

INTRODUCTION

The Administration's fiscal year 1988 budget request submitted earlier this year recommended that increases in the service-connected disability compensation and DIC programs be indexed to the annual change in the Consumer Price Index (CPI) in the same manner as the non-service-connected disability pension program and Social Security. The Administration estimated that the cost-of-living increase for these programs, effective December 1, 1987, would be 3.5 percent, based on the changes in the CPI from the

75-232

H763-11

third quarter of calendar year 1986 to the third quarter of calendar year 1987.

On February 11, 1987, the Chairman of the Subcommittee on Compensation, Pension and Insurance, the Honorable Douglas Applegate, introduced H.R. 1084, a bill that would provide a 3.5 percent cost-of-living adjustment (COLA) effective December 1, 1987.

In its report to the Committee on the Budget (February 25, 1987), the Committee recommended that the First Concurrent Budget Resolution contain new budget authority and outlays for a 3.5 percent COLA, effective December 1, 1987. The resolution, as passed by the House, included a 4.1 percent increase based on the then current economic assumptions. The conference agreement on H. Con. Res. 93, the proposed budget for fiscal year 1988, also contained budget authority for a 4.1 percent increase.

During a hearing on April 9, 1987, before the Subcommittee on Compensation, Pension and Insurance on H.R. 1084, spokesmen for the Veterans' Administration testified that the Administration strongly supports COLA's based upon actual increases in the cost of living, but stated that the Administration believes this can best be done by legislation that would provide for an automatic annual increase in compensation rates indexed to the CPI increases.

Three other bills, H.R. 1427, H.R. 1543, and H.R. 1544 were also considered at the April 9, 1987 legislative hearing before the Subcommittee. H.R. 1427 would amend eligibility criteria applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled at time of death for benefits which may be paid as if the veterans' deaths were service connected. H.R. 1543 and H.R. 1544 would expand the list of disabilities suffered by former prisoners of war that are presumed to be service connected, liberalize the definition of former prisoner of war, and reduce the length of the incarceration period upon which a former prisoner of war's eligibility for dental treatment is based.

On June 17, 1987, the Subcommittee recommended a draft bill providing a 4.1 percent COLA and incorporating the provisions of H.R 1427, H.R. 1543 and H.R. 1544. The Subcommittee draft also contained provisions prohibiting the Administrator of Veterans' Affairs from consolidating the St. Paul, Minnesota Insurance Center into the Philadelphia, Pennsylvania Insurance Center and expressing the sense of Congress that a bridge under construction between Weirton, West Virginia, and Stuebenville, Ohio, be named in honor of the Nation's veterans.

On June 24, 1987, the VA witness at an oversight hearing on the program established under Public Law 98–543 to provide vocational training for young pensioners testified that the program was successfully underway. He stated that the ceiling of 2,500 evaluations per program year contained in P.L. 98–543 would be met in November 1987 and the evaluations would have to be suspended until February 1988 unless the ceiling was modified.

On July 15, 1987, a clean bill, H.R. 2945, was introduced in lieu of the Subcommittee draft bill.

On July 22, 1987, the full Committee ordered reported H.R. 2945 with an amendment offered by Congressman Applegate to raise the limit on evaluations that may be provided by the VA under the

temporary program of vocational rehabilitation for certain young pensioners, from 2,500 per program year, to 3,500.

Summary of the Bill

H.R. 2945, as reported, would:

(1) Increase, by 4.1 percent, effective December 1, 1987, the rates of compensation for service-connected disabilities and rates of dependency and indemnity compensation for surviving spouses and children of veterans who die of service-connected causes and increase by 4.1 percent the aid and attendance allowance payable to eligible veterans and surviving spouses, the additional amounts for dependents and survivors, and the clothing allowance for certain veterans;

(2) provide improved benefits for former prisoners of war by expanding the definition of former prisoner of war, expanding the list of diseases for which service connection will be presumed, and reducing the incarceration period upon which a former prisoner of war's eligibility for dental care is based;

(3) amend eligibility criteria applicable to a surviving spouse of certain service-connected disabled veterans rated totally disabled at time of death for benefits which may be paid as if the veteran's death were service connected;

(4) prohibit the consolidation of the St. Paul, Minnesota, VA Insurance Center into the Philadelphia, Pennsylvania, Insurance Center;

(5) express the sense of the Congress that a bridge spanning the Ohio River between Weirton, West Virginia, and Steubenville, Ohio, be named in honor of the Nation's veterans; and

(6) increase the statutory ceiling from 2,500 to 3,500 evaluations per program year to determine whether it is feasible for certain pensioners to achieve a vocational goal.

Background of the Bill

Compensation and Dependency and Indemnity Compensation

There were 2,214,207 veterans receiving disability compensation as of July 1, 1987. The Veterans' Administration expenditures for disability compensation for fiscal year 1988 are expected to be $8.3 billion.

The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury in the line of duty during active duty service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Veterans' Administration. This determination is based upon the service medical records or other evidence which may be presented to the Veterans' Administration by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of ten percent or more within one year of his discharge from such service, service connection may be granted by presumption. Service connection may be granted by presumption for active tuberculosis or Hansen's disease (leprosy) which becomes manifest to a degree of 10 percent or more within three years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10-percent degree within seven years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies or anxiety states or psychosis which become manifest to a degree of 10 percent or more at any time after service, may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received by the Veterans' Administration, that agency obtains the service medical records and the issue of service connection is generally decided based upon such records. If the service medical records do not establish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be by statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Veterans' Administration also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a VA examination. If a veteran with a service-connected disability should feel in some later year that the disability has increased in severity, evidence of this, usually a statement of recent medical treatment, may be presented to the Veterans' Administration to request reevaluation of the disability. Should the Veterans' Administration deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veterans Appeals provided the veteran notifies the agency of his or her disagreement with the decision within one year of the date of notification of the decision.

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Veterans' Administration for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "Schedule for Rating Disabilities" which is used as the guideline

for measuring the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

Dependency and Indemnity Compensation for Survivors of Veterans Who Have Died of Service-Connected Causes

As of July 1987, there are 264,575 spouses and 47,546 children receiving dependency and indemnity compensation (DIC). These are the survivors of more than 300,000 veterans who either died in service or who died of service-incurred causes. About $2.1 billion is expected to be paid in fiscal year 1987 to the survivors. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $498 for the surviving spouse of an E–1 to $1,274 for the surviving spouse of an 0–10. Surviving spouses are entitled to an additional $58 for each child.

There is an additional allowance of $149 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound, may be granted a special allowance of $73 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity compensation benefits but there is a surviving child, the child is entitled to $251 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service connected. These determinations are made on a very liberal basis. For example, there are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of co-existing conditions. Even though such a disability is non-service-connected and is the primary cause of death, consideration is given to whether the co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death had been so accelerated, it will be considered service connected. The death of any veteran whose service-connected disabilities were the primary cause of death or con-

tributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. It is necessary for entitlement under this provision that the 100 percent rating has been in effect continuously for at least ten years at death; or continuously since service and for at least five years. A surviving spouse must have been married to a veteran for at least two years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivors' death benefits:

ACTIVE DEPENDENCY AND INDEMNITY COMPENSATION CASES

	DIC beneficiaries		
	Total	Widows	Children
Total	312,121	264,575	47,546
World War I	19,342	18,539	803
World War II	124,544	119,721	4,823
Korean Conflict	30,247	28,068	2,179
Vietnam era	80,419	55,041	25,378
Spanish/American War	64	50	14
Mexican border period	1	1	0
Indian War	0	0	0
Civil War	2	0	2
Regular Establishment	57,502	43,155	14,347

Discussion of the Bill

Percent of Increase in Compensation Rates

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those receiving compensation and DIC benefits.

From December 1945 through November 1986, the cumulative increase in the Consumer Price Index (CPI) was 498 percent. During the same period, the cumulative increase in the compensation rate paid for the totally and permanently disabled service-connected unmarried veteran has been 1026 percent.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Title I of H.R. 2945 would provide, effective December 1, 1987, a 4.1 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment in the consumer price index in the same manner as the non-service-connected pension program and

social security. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvemenmts to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 98–576, effective December 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. For these reasons, the Committee is rejecting the Administration's indexing proposal.

Should the proposed 4.1 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1987 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1987

		Increase (monthly rate)	
		From	To
Percentage of disability or subsection under which payment is authorized:			
(a)	10 percent	$69	$71
(b)	20 percent	128	133
(c)	30 percent	194	201
(d)	40 percent	278	289
(e)	50 percent	394	410
(f)	60 percent	496	516
(g)	70 percent	626	651
(h)	80 percent	724	753
(i)	90 percent	815	848
(j)	100 percent	1,355	1,410
Higher statutory awards for certain multiple disabilities:			
(k)	(1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss.	63	63
	(2) Limit for veterans receiving payments under (a) to (j) above	1,684	1,753
	(3) Limit for veterans receiving benefits under (l) to (n) below	2,360	2,456
(l)	Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance.	1,684	1,753
(m)	Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance.	1,856	1,932

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1987—Continued

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis.	2,111	2,197
(o) Disability under conditions entitling veterans to two or more of the rates provided in (1) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis.	2,360	2,456
(p) (1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed.	2,360	2,456
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed.	2,360	2,456
(3) Blindness with only light perception or less with bilateral deafness (hearing imnpairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed.	2,360	2,456
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of.	2,360	2,456
(q) [This subsection repealed by Public Law 90–493.]		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates.	1,013	1,054
(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate.	1,509	1,570
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound.	1,516	1,578
(t) [This subsection repealed by Public Law 99–576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$82	$85

	Increase (monthly rate)	
	From	To
Has a spouse and child	138	143
Has no spouse, 1 child	57	59
For each additional child	44	45
For each dependent parent	57	59
For each child age 18–22 attending school	126	131
Has a spouse in nursing home or severely disabled	149	155

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	From	To
E–1	$498	$518
E–2	513	534
E–3	526	547
E–4	560	582
E–5	574	597
E–6	587	611
E–7	616	641
E–8	650	676
E–9	[1] 679	[1] 706
W–1	630	655
W–2	655	681
W–3	674	701
W–4	714	743
O–1	630	655
O–2	650	676
O–3	696	724
O–4	736	766
O–5	811	844
O–6	914	951
O–7	988	1,028
O–8	1,083	1,127
O–9	1,162	1,209
O–10	[2] 1,274	[2] 1,326

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,420.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$251	$261
Two children	361	375
Three children	467	486
Each additional child	94	97

TITLE II—IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

Title II of H.R. 2945 would permit the Administrator to afford POW status for certain veterans who were interned in wartime by other than enemy governments. Current law gives the Administrator such discretionary authority for events occurring in peacetime only.

Title II also contains provisions expanding the list of diseases for which service connection may be presumed if manifested by former prisoners of war to a compensable degree. The diseases to be added are peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers. During the 99th Congress, the House passed H.R. 4333 which would have added spastic colon to the list of presumptive conditions. The addition of this disease, as well as peripheral neuropathy and peptic or duodenal ulcer, would appear warranted in view of the lack of medical records maintained during captivity and in consideration of the hardships endured by this group.

Finally, title II contains a provision, also passed by the House as part of H.R. 4333, that would reduce the incarceration period upon which a former prisoner of war's eligibility for dental treatment is based—from six months to ninety days. This change is proposed in recognition of the fact that under some circumstances of incarceration dental/oral pathology could develop and become irreparable within a period of ninety days.

TITLE III—MISCELLANEOUS PROVISIONS

Title III of H.R. 2945 contains miscellaneous provisions including an amendment to the eligiblity criteria applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled at time of death for DIC benefits that may be paid as if the veteran's death were service connected. Current law provides that such benefits may be paid to a veteran's surviving spouse if he or she was married to the veteran for not less than two years immediately preceding the veteran's death. This provision would conform the marriage requirements to those applicable to surviving spouses of veterans whose deaths are service connected.

Title III also contains a provision prohibiting the VA from consolidating the St. Paul, Minnesota, Insurance Center into the Philadelphia, Pennsylvania, Insurance Center. The Committee is of the opinion that the projected cost savings expected by the VA as a result of its planned consolidation do not support this action.

The reported bill expresses the sense of the Congress that a bridge spanning the Ohio river between Weirton, West Virginia, and Steubenville, Ohio, be named in honor of the Nation's veterans.

Finally, title III contains a provision expanding the number of evaluations that may be conducted annually with regard to the temporary program of vocational rehabilitation for certain younger pensioners from 2,500 per program year to 3,500 per program year. This amendment is supported by the fact that, during a hearing on the implementation of the program, a VA representative testified that, unless the ceiling on the evaluations were lifted, the VA

would have to suspend the evaluations for a period of three months.

SECTION-BY-SECTION ANALYSIS OF H.R. 2945

TITLE I—RATE INCREASES

Section 101. Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 4.1 percent the basic monthly rates of compensation paid to veterans with service-connected disabilities rated from 10 to 100 percent. The Committee bill would also increase by 4.1 percent:

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314;

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance; and

The rate payable under subsection (s) to veterans who are permanently housebound.

Subsection (b) of section 101 would authorize the Administrator to increase by 4.1 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38. Public Law 85–857 generally codified in title 38 of the United States Code the law relating to veterans' benefits; section 10 of that law provides that any person who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, so long as he or she remains eligible.

Section 102. Would amend paragraph (1) of present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 4.1 percent. Under paragraph (2) of present section 315, which is not amended by the Committee bill, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent receives 30 percent of that amount specified in paragraph (1) of section 315.

Section 103. Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or

orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 4.1 percent.

Section 104. Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service connected.

Paragraph (1) of section 104 would amend subsection (a) of present section 411 to increase by 4.1 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran. The DIC rate payable to the surviving spouses of veterans who had attained the grades of E–1 through 0–10 would be increased by 4.1 percent, and proportionate increases would be provided in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411.

The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under proposed new section 418 of title 38 (as would be added by section 301) to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Paragraph (2) of section 104 would amend subsection (b) of present section 411 to increase by 4.1 percent the dependents' allowance for each child under the age of 18 to a surviving spouse receiving DIC.

Paragraph (3) of section 104 would amend subsection (c) of present section 411 to increase by 4.1 percent the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Paragraph (4) of section 104 would amend subsection (d) of present section 411 to increase by 4.1 percent the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 105. Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service-connected, to provide a 4.1 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled.

Benefits payable at DIC rates under proposed new section 418 of title 38 (as would be added by section 301) to the surviving children of certain veterans compensated at the 100 percent rate whose deaths were not service connected would also be automatically increased as a result of this increase under section 413.

Section 106. Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Paragraph (1) of section 106 would amend subsection (a) of present section 414 to provide a 4.1 percent increase in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph 2 of section 106 would amend subsection (b) of present section 414 to provide a 4.1 percent increase in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (3) of section 106 would amend subsection (c) of present section 414 to provide a 4.1 percent increase in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 107. Would provide that the amendments made by this title shall take effect on December 1, 1987.

TITLE II—IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

Section 201. Would amend section 101(32)(B) of title 38 by striking out language which limits recognition of POW status for individuals held by foreign governments or its agents or a hostile force during peacetime only. This change would extend the discretionary authority of the Administrator of Veterans' Affairs to recognize as former prisoners of war certain individuals held by other than an enemy government during a period of war.

Section 202. Would amend section 312(b) of title 38 by adding at the end thereof three new diseases—peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers—to the list of diseases for which service connection may be presumed if suffered by former prisoners of war and manifested to a degree of 10 percent or more.

Section 203. Would amend section 612(b)(1)(G) of title 38 by reducing the period of internment required in the case of a former prisoner of war to establish eligibility for dental care from six months to 90 days.

Section 204. Would provide that the amendments made by title II of the bill shall take effect on October 1, 1987.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301. Paragraph (a)(1) would recodify provisions presently found in section 410(b) of title 38 as new section 418 of title 38 as follows:

Subsection (a) of new section 418 would provide that the Administrator shall pay benefits under chapter 13 to the surviving spouse and children of a veteran described in subsection (b) in the same manner as if the veteran's death were service connected.

Subsection (b) of new section 418 would provide that a deceased veteran referred to in subsection (a) means a veteran who was in receipt of service-connected compensation and was totally disabled for a period of ten or more years immediately preceding death or, if so rated for a lesser period, was continuously rated totally disabled for a period of not less than five years from date of discharge or other release from active duty.

Subsection (c) of new section 418 would provide that benefits under chapter 13 by reason of this section may not be paid to a surviving spouse of a veteran unless the marriage to the veteran

occurred before the expiration of fifteen years after the veteran's discharge, the surviving spouse was married to the veteran for one year or more, or a child was born of the marriage.

Subsection (d) of new section 418 provides for an offset of death benefits that would otherwise be payable under this section if a surviving spouse or child receives any money or property of value pursuant to an award in a judicial proceeding, or settlement, based on the death of the veteran.

Subsection (e) of new section 418 would provide that for the purposes of sections 1448(d) and 1450(c) of title 10, United States Code, eligibility for benefits under this section shall be deemed eligibility for dependency and indemnity compensation.

Paragraph (a)(2) would amend the table of sections at the beginning of chapter 13 of title 38 by inserting a catch line relating to new section 418.

Subsection (b) of section 301 would make conforming amendments to section 410 of title 38 by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

Subsection (c) of section 301 would provide that the amendments made by this section shall take effect on October 1, 1987.

Section 302. Subsection (a) of section 302 would provide that the Administrator of Veterans' Affairs shall continue to maintain and operate separately the VA Insurance Centers located in St. Paul, Minnesota, and Philadelphia, Pennsylvania.

Subsection (b) of section 302 would provide that the Administrator may not take any action to consolidate the Insurance Centers as proposed in a reorganization plan submitted to the Congress on February 5, 1986 under section 210(b)(2)(A) of title 38.

Section 303. Subsection (a) of section 303 would state that the Congress expresses its continued recognition of, and appreciation for, the sacrifices made by all of America's veterans, living and dead.

Subsection (b) of section 303 would express the sense of Congress that it is appropriate that fitting memorials recognizing the achievments and sacrifices of America's veterans be established and that the bridge currently under construction between the cities of Weirton, West Virginia, and Steubenville, Ohio, the name of which is to be selected by the Governor of West Virginia, would be such an appropriate and fitting memorial to America's veterans.

Section 304. Would amend section 524(a)(3) of title 38 by increasing the number of evaluations that may be conducted under such section from 2,500 to 3,500 during any program year.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Inflationary Impact Statement

The enactment of the reported bill would have no inflationary impact.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The following letter was received from the Congressional Budget Office concerning the cost of the reported bill.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

July 23, 1987

Honorable G.V. Montgomery
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

In response to your request, CBO has prepared the attached cost estimate for H.R. 2945, the Veterans Compensation Amendments of 1987, as ordered reported by the House Committee on Veterans' Affairs, July 21, 1987.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Edward M. Gramlich
Acting Director

cc: Honorable Gerald B.H. Solomon
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 23, 1987

1. BILL NUMBER: H.R. 2945

2. BILL TITLE:

Veterans' Compensation Amendments of 1987.

3. BILL STATUS:

As ordered reported by the House Committee on Veterans' Affairs, July 21, 1987.

4. BILL PURPOSE:

To provide a 4.1 percent increase in the rates of disability compensation and dependency and indemnity compensation (DIC), and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Budget Authority	335	395	388	380	373
Estimated Outlays	302	395	388	381	373

The cost of this bill would fall in budget function 700.

Basis of Estimate

The following section-by-section cost analysis addresses only those sections of the bill that could be expected to have a significant budgetary impact.

Title I. This title would increase by 4.1 percent the monthly rates of disability compensation and DIC, effective December 1, 1987. In the calculation of the new rates, however, all amounts of less than $1 were rounded down to the next lower dollar.

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Budget Authority	334	394	387	380	373
Estimated Outlays	301	394	387	381	373

The CBO baseline assumes an increase in compensation rates of 4.1 percent, with amounts greater than $0.50 rounded to the next higher dollar. The savings to the baseline that would be achieved by rounding down the rate increase is shown below.

(By fiscal years, in millions of dollars)

	1988	1989	1990	1991	1992
Budget Authority	-18	-22	-21	-21	-21
Estimated Outlays	-16	-22	-22	-21	-21

The cost of this title was estimated by multiplying the average costs in each year for all disability compensation and for all DIC cases by 4.1 percent. The resulting average increase in costs per year were then multiplied by the estimated number of cases in each program each year to calculate the annual cost. Future average cost and caseload levels were projected according to historical trends for recipients by period of service.

The effects of rounding down certain rates was calculated by multiplying the number of cases in each affected payment category by 12 months and deducting the total from the cost of the rate increase.

Title III.

Section 304. This section would increase from 2,500 to 3,500 the number of veteran pensioners under age 50 who can be evaluated for suitability for vocational rehabilitation.

	1988	1989	1990	1991	1992
Budget Authority	1	1	1	*	*
Estimated Outlays	1	1	1	*	*

According to VA data, of the 3,732 young pension applicants who have been evaluated under this program, 32 percent have been found suitable for training but only 10 percent have elected to train. The above estimate assumes these ratios will continue in future years. The average training cost for pensioners receiving training in 1986 was $1,108; this amount was increased for anticipated inflation in future years. An average cost for evaluation, training, and employment counseling of $1,000 per pensioner was assumed based on VA data.

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6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

The Congressional Budget Office has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE: None.

9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820).

10. ESTIMATE APPROVED BY:

for James L. Blum
Assistant Director
for Budget Analysis

AGENCY REPORTS

The Committee received the following views of the Veterans' Administration on H.R. 1084, H.R. 1427, H.R. 1543, and H.R. 1544:

Office of the Administrator of Veterans Affairs

Washington DC 20420

Veterans Administration

APR 7 1987

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to respond to your request for a report on H.R. 1084, 100th Congress, entitled "Veterans' Compensation Amendments of 1987." The measure, if enacted, would authorize cost-of-living increases in the statutory rates of disability compensation for veterans with service-connected disabilities and rates of dependency and indemnity compensation (DIC) for surviving spouses and children of veterans.

H.R. 1084 would provide a 3.5 percent increase in the compensation and DIC rates. The effective date for such increases would be December 1, 1987. The proposed rate adjustment, 3.5 percent, is no doubt designed to assure that the beneficiaries of these benefits keep abreast of the steadily increasing cost of living.

The disability compensation program provides monetary relief from impairments in earning capacity suffered by veterans disabled during, or as a result of, military service. DIC benefits, on the other hand, are payable to the surviving spouses and children of veterans whose deaths were service connected. DIC rates for surviving spouses are based on the deceased veterans' military pay grades.

We estimate the first 5-year cost resulting from enactment of H.R. 1084 would be as follows:

Fiscal Year	Cost ($ millions)
1988	$ 305.9
1989	366.6
1990	365.7
1991	364.6
1992	362.6
	$1,765.4

2.

Honorable G.V. (Sonny) Montgomery

It has been the policy of this Administration to recommend and support Veterans Administration benefit increases, within the limits of sound fiscal policy, when needed to insure that VA beneficiaries do not suffer economic deprivation because of the increased cost of living. As you are aware, Congress enacted, as a part of Pub. L. No. 99-576, a 1.5 percent COLA in these benefits, approved by the President on October 28, 1986.

The Administration strongly supports COLA's based upon actual increases in the cost of living. However, we believe this may best be done by legislation that would provide for an automatic annual increase in compensation rates indexed to the periodic Consumer Price Index increases, as in the case of pension and a number of other governmental benefits. This approach would obviate the laborious and expensive legislative activity that is generated under the present year-by-year procedure, and would ensure timely and full increases to service-connected disabled veterans and their survivors. Accordingly, while we do support the concept of the bill, we are unable to support the measure as written. We would, however, support a bill that would provide COLA's in these rates effective December 1, 1987, commensurate with the actual CPI increase, if the proposal included indexed increases thereafter. We recently recommended such legislation as a part of our annual legislative program. For your ready reference, a copy of our draft bill is enclosed.

In view of the foregoing, we do not recommend enactment of H.R. 1084.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE
Administrator

Enclosure

100th Congress

First Session

A BILL

To amend title 38, United States Code, to index rates of veterans' disability compensation and surviving spouses' and children's dependency and indemnity compensation to automatically increase to keep pace with the cost of living, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,

SHORT TITLE AND REFERENCES

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation and Benefits Improvement Act of 1987."

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

2.

TITLE I--DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

SEC. 101. Section 3112 is amended by redesignating subsection (c) as subsection (d) and inserting the following new subsection:

(c)(1) Effective December 1 of each year, each rate of disability compensation under sections 314 and 315, dependency and indemnity compensation under sections 411, 413, and 414, and the clothing allowance under section 362 shall be increased by the percent change in the price index for the base quarter of such year over the price index for the base quarter of the immediately preceding year, adjusted to the nearest 1/10 of 1 percent.

(2) For the purpose of this section--

(A) "price index" means the Consumer Price Index published monthly by the Bureau of Labor Statistics;

3.

(B) the term "base quarter," as used with respect to a year, means the calendar quarter ending on September 30 of such year; and

(C) the price index for a base quarter is the arithmetical mean of such index for the 3 months comprising such quarter.

SEC. 102. The redesignated subsection (d) of section 3112 is amended by redesignating paragraph (2) as paragraph (3) and inserting the following new paragraph:

"(2) Whenever disability compensation, dependency and indemnity compensation, and clothing allowance rates are increased under subsection (c) of this section, the Administrator shall publish such new rates in the Federal Register as soon as practicable."

SEC. 103. The Administrator may, consistent with the increases authorized by this title, administratively adjust the rates of disability compensation payable to persons within the purview of section 10 of Public Law No. 85-857 who are not in receipt of compensation payable under

4.

chapter 11 of title 38, United States Code. Notice of any adjustments made under this section will be published in accordance with section 102, above.

TITLE II--ADOPTED CHILD AND INCOME EXCLUSION AMENDMENTS

ADOPTION UNDER FOREIGN LAW

SEC. 201. Section 101(4)(B) is amended by--

(1) striking out "and" at the end of subclause (i)(III);

(2) inserting after subclause (i)(IV) the following new subclause:

"(i)(V) prior to the time of adoption, was orphaned by the death of both parents, or was properly committed to and recommended for the adoption by a government-operated child-welfare agency or a duly-licensed child-placement agency; and"

(3) striking out the period at the end of subclause (ii) and inserting in lieu thereof "; and"; and

(4) inserting after subclause (ii) the following new subclause:

"(iii) a person shall not be considered the stepchild

5.

of a veteran during the lifetime of such veteran or as of the date of the veteran's death or thereafter on the basis of the adoption of the person by the veteran's spouse on or after July 1, 1987, unless, prior to the time of adoption, the person--

"(I) was orphaned by the death of both parents; or

"(II) was properly committed to and recommended for the adoption by a government-operated child-welfare agency or a duly-licensed child-placement agency."

INCOME EXCLUSION,
CASUALTY LOSS REIMBURSEMENT

SEC. 202. Sections 415(f)(1)(I) and 503(a)(5) are each amended to read as follows:

"reimbursement of any kind for any casualty loss, as defined by the Administrator, provided that in no event shall the amount to be excluded exceed the fair market value of the property involved immediately preceding the loss;".

6.

TITLE III--MISCELLANEOUS AMENDMENTS

REINSTATED ENTITLEMENT PROGRAM FOR SURVIVORS (REPS)

SEC. 301(a). Section 156(a)(1)(B) of Pub. L. No. 97-377, 96 Stat. 1830, 1920 (1982) is amended by inserting after the word "month" the following clause:

"or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code".

(b) Section 156(a)(1)(C) of Pub. L. No. 97-377, 96 Stat. 1830, 1920 (1982) is amended by inserting after "(42 U.S.C. 402(g))" a comma and the following clause:

"or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code,".

INDEBTEDNESS OFFSETS BY OTHER FEDERAL AGENCIES

Sec 302. Section 3114 is amended--

(1) by redesignating subsection (d) as subsection (e)

7.

and inserting the following new subsection:

"(d)(1)(A) In the event a person becomes indebted to the Veterans Administration by reason of an overpayment of benefits under chapter 11 or chapter 15 of this title, the Administrator, after complying with the procedures provided in subsection (b) of this section, may request that the Secretary of the uniformed service concerned collect any portion of the indebtedness not waived under section 3102 of this title from retired or retainer pay due such person by such uniformed service.

"(B) Such Secretary, upon receiving a request under subparagraph (A) of this paragraph, shall determine whether any retired or retainer pay is payable by such uniformed service to the person named in the request and, if so, shall deduct the amount of any portion of the indebtedness not waived under section 3102 of this title from future payments of retired or retainer pay made to such person by such uniformed service.

"(2)(A) A collection authorized by paragraph (1) of

8.

this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections.

"(B) For purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31--

"(i) the term 'records of the agency' shall be considered to refer to the records of the Veterans Administration; and

"(ii) the term 'agency' in clauses (3) and (4) shall be considered to refer to the Veterans Administration.

"(3) Funds collected pursuant to a request made under this subsection shall be credited to the Veterans Administration appropriation account from which the overpayment was made."

ADMINISTRATIVE DEBT COLLECTION
BY OFFSET FROM VETERANS' BENEFITS

Sec. 303. Section 3101(c)(1) is amended by--

9.

(1) inserting ": (A)" following "the amount of";

(2) striking out the period at the end thereof and inserting in lieu of the period a semicolon; and

(3) inserting at the end thereof the following: "and (B) any overpayments of retired or retainer pay (for service in a uniformed service named in section 101(3) of title 37) made to the veteran."

DISCLOSURE OF SOCIAL SECURITY NUMBERS

SEC. 304. Section 3001 is amended by adding the following new subsection:

"(c) Any person who applies for or is in receipt of any compensation or pension benefits under this title is required, as a condition precedent to receipt or continued receipt of such benefits, where a social security number has been assigned, to provide to the Administrator upon request his or her social security number, and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of any such benefits."

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUN 11 1987

Honorable G.V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am pleased to respond to your request for a report on H.R.'s 1427, 1543, and 1544, 100th Congress. H.R. 1427 would, if enacted, make minor adjustments to dependency and indemnity compensation (DIC), and H.R.'s 1543 and 1544 would enlarge benefits for former prisoners of war. For reasons to be stated, we oppose enactment of these bills.

H.R. 1427 proposes changes primarily of a technical nature. Section 410(b)(1) of title 38 currently authorizes DIC, under specified conditions, to surviving spouses and children of veterans whose deaths were not service connected but who were continuously paid compensation for total service-connected disabilities for prescribed periods. Section 410(b)(2) provides for offset against such benefit of any amount the claimant may receive as judicial or other damages for the death of the veteran. H.R. 1427 would strike section 410(b) and move these provisions to a new section 418, "Benefits for survivors of certain veterans rated totally disabled at time of death."

H.R. 1427 would, however, make one substantive change. Section 410(b)(1) presently requires that, for this benefit to be payable to a surviving spouse, he or she must have been married to the veteran for at least two years immediately preceding the veteran's death. H.R. 1427 would change the marriage requirement so as to qualify a surviving spouse who "was married to the veteran for one year or more."

We do not support the substantive provision of this bill. Present law, at section 404(1), requires one year of marriage for eligibility for DIC where death is service connected. Because section 410(b) establishes a generous presumption conferring entitlement to DIC in cases of nonservice-connected death, there should be some higher standard required, i.e., the present two-year marriage

provision. Otherwise, we have no objection to the technical amendments this measure would make. The effective date of H.R. 1427 would be October 1, 1987.

We are unable to estimate the cost of H.R. 1427, if enacted, but do not believe it would exceed $1 million annually.

H.R. 1543 and H.R. 1544 would enlarge veterans' benefits eligibility for former prisoners of war.

If enacted, H.R. 1543 would add "spastic colon" to the list of those medical conditions for which service connection may be presumed if manifested to a compensable degree, at any time following service, by veterans who were prisoners of war for at least 30 days. H.R. 1544 would add that and the conditions of "peripheral neuropathy due to trauma" and "peptic or duodenal ulcers." Both bills would reduce, from six months to ninety days, the period of time that a former prisoner of war would have had to have been held captive to qualify for VA-furnished treatment for a dental condition or disability. Both bills carry a proposed effective date of October 1, 1987.

H.R. 1543 would also make a minor change in the language of 38 U.S.C. § 101(32)(B), the result of which would be to authorize the Administrator to recognize POW status for certain servicemembers who were held during wartime by other than enemy governments. Current law gives the VA this discretion only during peacetime. We are aware that a number of American servicemen were interned by the Soviet Union during World War II, when that nation was our ally against the Axis powers. The amendment in H.R. 1543 would permit us to deem such individuals as former POW's, if we found the conditions of their detention comparable to other POW experiences. We support this change.

Other than the provision just discussed, we have reservations about the enactment of H.R. 1543 and H.R. 1544. Several general observations are appropriate.

Initially, we point out that an expansion of the list of presumptive diseases, as now proposed, would have only a minimal effect on the VA's current adjudicative practices. There are two reasons for this. First, in the case of POW's the conditions identified in the bills ordinarily

would become manifest and require treatment upon repatriation or shortly thereafter, and so typically service connection can be and is recognized on a "direct" basis following a review of available medical evidence. Second, VA policy is to treat claims of former POW's in a liberal manner, giving special consideration to the hardships and privations they have endured and, of course, resolving any reasonable doubt in their favor. We thus believe there is no need for a statutory presumption for disabilities in addition to those already listed at section 312(b) of title 38.

On the other hand, we are mindful that some cases do not fit the norm. In particular, we are aware of the realities of the repatriation process and the initial tendency of many ex-POWs to put aside their traumatic experiences. This, in turn, can result in a lack of sufficient evidence to substantiate a claim filed some years later. We believe, therefore, that this legislation could serve as a "safety net" for some ex-POWs, facilitating grants of service connection well after service in some deserving cases.

In evaluating H.R. 1543 and H.R. 1544, it is well to keep in mind that the statutory presumption is not conclusive but rather rebuttable in nature. In a particular case, it may be overcome by evidence of record establishing that the condition claimed is unrelated to service. Thus, we believe there is little likelihood that spurious claims for service connection would be granted.

Our principal reservation concerning both measures involves the incorporation of "spastic colon" and "peptic or duodenal ulcers" as presumptive diseases at this time. Spastic colon, preferably known as irritable bowel syndrome, is a functional disorder as to which the etiology and pathogenesis are unknown and the diagnosis is subjective, often made by exclusion. Because it is a somewhat vague diagnostic entity, we believe blanket legislation to presume service connection is inappropriate. Similarly, peptic or duodenal ulcer is a condition as to which we are unaware of any substantive medical justification for presuming service connection in former POW's. Indeed, there was discussion at the last meeting of the Advisory Committee on Former Prisoners of War indicating a lack of valid scientific support for its inclusion in the list of presumptive diseases.

4.

Honorable G.V. (Sonny) Montgomery

The third disorder proposed to be added to the presumptive disease list is "peripheral neuropathy due to trauma." Our concern is that such disability would likely have been identified in or shortly after service, and that a presumption is unnecessary. We recognize, however, that the Congress enacted a presumption for traumatic arthritis last year, so a precedent has been established for this type of amendment.

In our view, the bill's proposed amendment relating to dental treatment for former POW's has questionable merit. Under current law, comprehensive outpatient dental care is provided to those who were interned at least six months. We believe that the qualifying period of internment now proposed, i.e., ninety days, may not be scientifically supportable. We think it highly unlikely that, even in circumstances of incarceration, dental/oral pathology could develop and become irreversible in a period of ninety days. Although our dental professionals acknowledge such development is conceivable, we essentially believe no scientific case has been made for statutory change, nor has a mandate emerged from the POW Advisory Committee in favor of this amendment.

We estimate that, for this expanded dental-care eligibility, first-year costs would approximate $280 thousand and five-year costs would approximate $1.25 million. The additional presumptive diseases for POW's would probably generate less than $1 million in annual costs.

In view of the foregoing, we do not support enactment of H.R.'s 1427, 1543 or 1544.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report to the Congress.

Sincerely,

THOMAS K. TURNAGE
Administrator

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 1—GENERAL

* * * * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, [during a period other than a period of war in which such person was held] under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * * * *

PART II—GENERAL BENEFITS

* * * * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) * * *

* * * * * * *

(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite, [or]

(12) post-traumatic osteoarthritis,
(13) peripheral neuropathy due to trauma,
(14) spastic colon, or
(15) peptic or duodenal ulcers,

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be [$69;] *$71;*

(b) if and while the disability is rated 20 percent the monthly compensation shall be [$128;] *$133;*

(c) if and while the disability is rated 30 percent the monthly compensation shall be [$194;] *$201;*

(d) if and while the disability is rated 40 percent the monthly compensation shall be [$278;] *$289;*

(e) if and while the disability is rated 50 percent the monthly compensation shall be [$394;] *$410;*

(f) if and while the disability is rated 60 percent the monthly compensation shall be [$496;] *$516;*

(g) if and while the disability is rated 70 percent the monthly compensation shall be [$626;] *$651;*

(h) if and while the disability is rated 80 percent the monthly compensation shall be [$724;] *$753;*

(i) if and while the disability is rated 90 percent the monthly compensation shall be [$815;] *$848;*

(j) if and while the disability is rated as total the monthly compensation shall be [$1,355;] *$1,410;*

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $63 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,684] *$1,753* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections *(l)* through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$2,360] *$2,456* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,684;] *$1,753;*

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both

hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,856;] *$1,932;*

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be [$2,111;] *$2,197;*

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$2,360;] *$2,456;*

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$2,360.] *$2,456.* In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,360.] *$2,456.* In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Administrator shall allow the

next intermediate rate, but in no event in excess of [$2,360.] *$2,456.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$2,360.] *$2,456.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

(r) subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,013;] *$1,054;* or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,509,] *$1,570,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability.

(a) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,516.] *$1,578.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, [$82;] *85;*

(B) has a spouse and one or more children [$138 plus $44] *$143 plus $45* for each child in excess of one;

(C) has no spouse but one or more children, [$57 plus $44] *$59 plus $45* for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts [$67] *$69* for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$149] *$155* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$126] *$131* for a totally disabled veterans and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

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Subchapter VI—General Compensation Provisions

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$365] *$379* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

* * * * * * *

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
401. Definitions.

* * * * * * *

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

410. Deaths entitling survivors to dependency and indemnity compensation.

* * * * * * *

418. Benefits for survivors of certain veterans rated totally, disabled at time of death.

* * * * * * *

Subchapter II—Dependency and Indemnity Compensation

§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) * * *

[(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veterans dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veterans' death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

[(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

[(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependence and indemnity compensation under section 411(a) of this title.]

[(c)] *(b)* Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose

death entitlement is predicated, at monthly rates set forth in the following table:

[Pay grade	Monthly rate	Pay grade	Monthly rate
E–1	$498	W–4	$714
E–2	513	O–1	630
E–3	526	O–2	650
E–4	560	O–3	696
E–5	574	O–4	736
E–6	587	O–5	811
E–7	616	O–6	914
E–8	650	O–7	988
E–9	[1] 679	O–8	1,083
W–1	630	O–9	1,162
W–2	655	O–10	[2] 1,174
W–3	674		

[[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $733.

[[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,365.

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E–1	*$518*	*W–4*	*$743*
E–2	*534*	*O–1*	*655*
E–3	*547*	*O–2*	*676*
E–4	*582*	*O–3*	*724*
E–5	*597*	*O–4*	*766*
E–6	*611*	*O–5*	*844*
E–7	*641*	*O–6*	*951*
E–8	*676*	*O–7*	*1,028*
E–9	[1] *706*	*O–8*	*1,127*
W–1	*655*	*O–9*	*1,209*
W–2	*681*	*O–10*	[2] *1,326*
W–3	*701*		

[1] *If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.*

[2] *If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,420.*

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$58] *$60* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$149] *$155* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$73] *$75* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if

institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * * * *

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, **[**$251;**]** *$261;*

(2) two children, **[**$361;**]** *$375;*

(3) three children, **[**$467**]** *$486;* and

(4) more than three children, **[**$467, plus $94**]** *$486, plus $97* for each child in excess of three.

* * * * * * *

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[**$149**]** *$155.*

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$251**]** *$261.*

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$128**]** *$133.*

* * * * * * *

§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) The Administration shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful

misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from activie duty.

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the marriage to the veteran occurred before the expiration of 15 years after the veteran's discharge or other release from active duty;

(2) the surviving spouse was married to the veteran for one year or more; or

(3) a child was born of the marriage or was born to them before the marriage.

(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market of the property received.

(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

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CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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Subchapter II—Veterans' Pensions

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NON-SERVICE-CONNECTED DISABILITY PENSION

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§ 524. Temporary program of vocational training for certain new pension recipients

(a)(1) * * *

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(3) Not more than [2,500] *3,500* veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * * * *

Subchapter II—Hospital, Nursing Home or Domiciliary Care and Medical Treatment

* * * * * * *

§ 612. Eligibility for medical treatment

(a) * * *

(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) * * *

* * * * * * *

(G) from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than [six months] *90 days* is suffering; or

* * * * * * *

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